

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,
-against-

ORDER

10 CV 5567 (DRH) (AKT)

VINCENT PATRICK MCCRUDDEN,
MANAGED ACCOUNTS ASSET
MANAGEMENT, LLC, and ALNBRI
MANAGEMENT, LLC,

Defendants.

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HURLEY, Senior District Judge:

On November 13, 2014 Plaintiff U.S. Commodity Futures Trading Commission (“CFTC” or “plaintiff”) submitted a letter to the Court seeking a pre-motion conference concerning its intended motion for entry of default judgment pursuant to Federal Rule of Civil Procedure (“Rule”) 55(b) against defendants Managed Accounts Asset Management, LLC (“MAAM”) and Alnbri Management, LLC (“Alnbri”) (collectively, the “Corporate Defendants”). (DE 132, “the November Letter.”) The Clerk’s Office had already entered a notation of default pursuant to Rule 55(a) against the Corporate Defendants on March 5, 2012. The November Letter also noted the CFTC’s intention to bring a separate motion for default judgment against defendant Vincent Patrick McCrudden (“McCrudden”), for whom the Clerk’s Office entered a certificate of default on October 20, 2014. (DE 129.) On November 14, 2014, the Court referred the CFTC’s November Letter request to Magistrate Judge A. Kathleen Tomlinson.

On October 13, 2015, Judge Tomlinson issued a Report and Recommendation recommending that “the CFTC’s request to move forward with a motion for entry of default

judgment be denied,” that “as to the individual Defendant Vincent McCrudden, the certificate of default be declared null and void and that McCrudden be granted permission to file a late Answer,” and that “the default of the Corporate Defendants be set aside and that they, too, be permitted to file a late Answer.” (Report and Recommendation at 58-59.) More than fourteen days have elapsed since service of the Report and Recommendation, and no party has filed an objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Therefore, the Court adopts the Report and Recommendation of Judge Tomlinson as is set forth therein. Accordingly, the CFTC’s request to move for entry of default judgment is denied. The Court hereby orders that the certificate of default with respect to McCrudden is null and void, and the certificates of default with respect to the Corporate Defendants are vacated. The defendants shall file an answer within thirty days of this Order.¹

SO ORDERED.

Dated: Central Islip, New York
November 13, 2015

_____/s/
Denis R. Hurley
United States District Judge

¹ On May 19, 2015, defendant’s newly retained counsel Abigail C. Field, requested a pre-motion conference regarding an anticipated motion to vacate the notations of default against all three defendants. (DE 138.) Given the Court’s adoption of Judge Tomlinson’s Report and Recommendation, this request is moot.